**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

**DATED: 08-09-2005**

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**WRIT PETITION No.19821 OF 2005**

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Between:

T.R.Ramdass . . .Petitioner

And

The Commissioner, MCH, Hyd and others . . .Respondents

**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION No.19821 OF 2005**

**O R D E R:**

The petitioner is employed in AP TRANSCO. He was sent on deputation to the Municipal Corporation of Hyderabad, the first respondent, as Deputy Executive Engineer (Electrical) through order dated 22-03-2005 for a period of one year. While he is on deputation with the first respondent, he earned a promotion to the post of Divisional Engineer. The first respondent expressed his inability to continue the petitioner in their organization in view of the promotion earned by the petitioner. The second respondent addressed a letter, dated 26-07-2005, pointing out that there is only one post of Divisional Engineer in the Municipal

Corporation and one Sri Jagath Reddy is working against it. Ultimately, respondents 1 and 2 expressed the view that it is not possible to continue the petitioner in their organization. The petitioner challenges the letter, dated 26-07-2005.

Heard the learned counsel for the petitioner, the learned Standing Counsel for the first and second respondents and the learned Standing Counsel for the third respondent.

Had the deputation of the petitioner been cut short before expiry of one year, this Court certainly would have interfered with in the matter and ensured that the deputation is continued till the stipulated period. It is a matter of record that the petitioner earned promotion to a higher post. It is impermissible for the respondents to continue the petitioner in a superior post i.e. Divisional Engineer, when his deputation was to an inferior post of Deputy Executive Engineer (Electrical). In effect, the petitioner has to choose between his promotion or place of working. If he is particular about promotion, he has to leave the present working place, and if he is interested to continue in the place of deputation, he has to forego his promotion. He cannot have it both ways.

The learned counsel for the petitioner submits that a post in the Cadre of Divisional Engineer has fallen vacant in the Municipal Corporation subsequent to the impugned letter and that the case of the petitioner may be considered against it. This Court cannot give any positive direction in this regard. If the petitioner is of the view that he can be continued in the vacancy, which is said to have arisen recently, he can make a representation to the respondents. On receiving such representation, the respondents shall consider the feasibility of posting the petitioner against the said vacancy by examining whether his present status fits into that post and whether the relevant rules permit it, and dispose of the representation, so made, within a period of one week from the date of receipt of the same. Till then, the petitioner shall be continued on the same terms and conditions obtaining as on today.

The writ petition is accordingly disposed of.

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(L.NARASIMHA REDDY, J)

8th SEPTEMBER, 2005.

Note: furnish c.c. in two days.

B/o

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